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Attorneys for California Department of
Toxic Substances Control

**BEFORE THE
STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

In the Matter of:

Caspian, Inc.

Facility Address:

287 West Aten Road
El Centro, CA 92243

Respondent.

Case No. HWCA No. AG 00/01-3002

**STIPULATION AND CONSENT
ORDER**

Health & Safety Code Section 25187

The California Department of Toxic Substances Control ("Department" or
"DTSC") and Respondent Caspian, Inc. ("Caspian" or "respondent") enter into this Stipulation
and Consent Order (Consent Order) and hereby agree as follows:

1. The parties wish to avoid the expense of litigation and to ensure prompt
resolution of this matter as further described below.

1 4. The Department has taken into consideration the financial ability of Respondent
2 Caspian, Inc. in entering into this settlement. The Department has reviewed the financial
3 information submitted by Respondent to determine whether Respondent is financially able to pay
4 civil penalties arising from the alleged violation. Respondent Caspian, Inc. affirms that the
5 financial information provided is true and correct. Based upon and in reliance on the accuracy of
6 this financial information, the Department enters into this stipulation and consent order upon the
7 terms set forth herein.

8 5. Respondent waives any right to a hearing in this matter.

9 6. This Stipulation and Consent Order shall constitute full settlement of the violation
10 alleged herein, but does not limit the Department from taking appropriate enforcement action
11 concerning any other violations as provided by law.

12 7. On or about December 9, 1999 and January 10, 2000, representatives of
13 DTSC conducted on-site inspections of Respondent's El Centro facility located at 287 West
14 Aten Road, El Centro, California, EPA ID No. CAT 080034010 (hereinafter the "Site" or
15 "Facility"). During the inspections, the DTSC inspectors observed that there were no
16 manufacturing operations being conducted on-site, there were no offices, electricity and water
17 were turned off, and the area appeared to have been vandalized for its scrap metal value. The
18 DTSC inspectors also observed three large, 60,000-gallon capacity, tanks which, according to
19 Respondent's General Manager, Richard Remias, contained aluminum etchant which was
20 brought from Respondent's San Diego facility in the mid 1980's. The tanks were not labeled as
21 "hazardous waste" nor were they identified as "excluded recyclable material." When the DTSC
22 inspectors further inspected the tanks, they noticed sheets of plywood placed over the top of the
23 tanks which did not completely cover the tanks. The contents of the tanks were visibly exposed
24 to the environment. From the top of the tanks, the DTSC inspectors observed that each of the

1 indicated that a portion of the aluminum etchant had been removed from Respondent's El Centro
2 Facility as "hazardous waste." Specifically, the hazardous waste was described as "aluminum
3 etchant (sic) sludge: sodium hydroxide 25%, sodium aluminate 10%, sodium sulfide less than
4 3%, kiln dust balance."

5 8. The Department alleges the following violation:

6 Respondent Caspian, Inc. violated Health and Safety Code section 25201 (a), in
7 that from approximately the mid 1980's and continuing through approximately June 21, 2002,
8 Respondent stored hazardous waste consisting of caustic etchant at the Site, which is not an
9 authorized area for the storage of hazardous waste.

10 9. By entering into this Stipulation and Consent Order, Respondent neither admits
11 nor denies the violations and underlying facts as alleged above in sections 7 and 8. The
12 Department also hereby acknowledges that the alleged violation has been corrected.

13 10. Nothing in this Stipulation and Consent Order shall constitute or be construed as a
14 satisfaction or release from liability for any conditions or claims arising as a result of past,
15 current, or future operations of Respondent, except as provided herein. Notwithstanding
16 compliance with the terms of this Consent Order, Respondent may be required to take further
17 actions as are necessary to protect public health or welfare or the environment.

18 11. The State of California shall not be liable for injuries or damages to persons or
19 property resulting from any prior or future acts or omissions by Respondent in carrying out the
20 correction activities required by the Department.

21 12. Upon the effective date of this Stipulation and Consent Order, Respondent
22 Caspian, Inc. shall be liable for a total payment of forty thousand dollars (\$40,000.00) to the
23 Department. The sum of \$40,000 shall be allocated as follows: \$20,000 as reimbursement
24 toward's the Department's administrative costs and \$20,000 as civil penalties. Respondent shall

1 (b) Within one hundred twenty (120) days of the effective date of this
2 stipulation and consent order, Respondent shall remit to the Department the second payment in
3 the sum of \$10,000.00 in accordance with the instructions provided in section 14.

4 (c) Within two hundred ten (210) days of the effective date of this stipulation
5 and consent order, Respondent shall remit to the Department the third payment in the sum of
6 \$10,000.00 in accordance with the instructions provided in section 14.

7 (d) Within three hundred (300) days of the effective date of this stipulation
8 and consent order, Respondent shall remit to the Department the fourth and final payment in the
9 sum of \$10,000.00 in accordance with the instructions provided in section 14.

10 13. If Respondent fails to make payment as provided herein, Respondent agrees to
11 pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to
12 pay all costs incurred by the Department in pursuing collection, including attorney's fees.
13 Respondent further acknowledges and agrees that if Respondent fails to make payment as
14 provided herein, the Department may apply and obtain further judicial relief to collect the
15 administrative penalty as set forth in Health and Safety Code section 25184.1. Failure to comply
16 with the terms of this Order may subject Respondent to civil penalties and/or other damages for
17 any costs incurred by the Department or other government agencies as a result of such failure, as
18 provided by Health and Safety Code section 25188 and other applicable provisions of law.

19 14. Respondent's check shall identify the name of the case, docket number
20 "00/01-3002" and Facility and be made payable to the Department of Toxic Substances Control,
21 and shall be delivered to:

22 Department of Toxic Substances Control
23 Accounting Office
24 1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

1 15. This Stipulation and Consent Order shall apply to and be binding upon
2 Respondent Caspian, Inc., its officers, directors, agents, receivers, trustees, employees,
3 contractors, consultants, successors, and assignees, including but not limited to individuals,
4 partners, and subsidiary and parent corporations, and upon the Department and any successor
5 agency that may have responsibility for and jurisdiction over the subject matter of this Consent
6 Order.

7 16. The effective date of this Consent Order is the date it is signed by the
8 Department's representative.

9 17. This Stipulation and Order constitutes the entire agreement between the parties
10 and may not be amended, supplemented, or modified, except as provided in this agreement.

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1 **IT IS SO AGREED:**

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3 Date:4/5/04

original signed by Cyrus A. Jaffari

4 Caspian, Inc., Respondent
5 (Signature of Respondent's Authorized
6 Representative)

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8
9 (Typed or Printed Name and Title of Respondent's
Representative)

10 **IT IS SO AGREED AND ORDERED:**

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12 Dated: 04/27/2004

Original signed by Florence Gharibian
13 Branch Chief
14 Statewide Compliance Division
Department of Toxic Substances Control

15 **APPROVED AS TO FORM:**

16 Dated: 04/21/2004

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18 BILL LOCKYER, Attorney General
of the State of California
Theodora Berger, Sr. Assistant Attorney General
19 Timothy R. Patterson, Supervising Deputy Attorney General

20
21 *Original signed by*
Edward H. Ochoa
22 Deputy Attorney General
Attorneys for California Department of
23 Toxic Substances Control
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